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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,030	08/31/2001	Richmond Muimo	002.00190	6001
35876	7590	11/16/2005	EXAMINER	
ROGALSKY & WEYAND, LLP			NOLAN, PATRICK J	
P.O. BOX 44			ART UNIT	
LIVONIA, NY 14487			PAPER NUMBER	

1644

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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1. Claims 1-13 and 51 are pending.
2. Claims 4-5 and 8-58 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9-28-04.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3 and 6-7 stand rejected under 35 U.S.C. 102 (b) as being anticipated by Riemen et al. (21 on the IDS submitted 8-16-02), for reasons of record set forth in the Office Action mailed 2-25-05.

Applicant arguments filed 8-29-05 have been fully considered but are not found persuasive.

Applicant argues the abstract book was not published until April 27 of 1998, thereby obviating the 102(b) rejection.

However, as stated in the previous Office action, abstract books are frequently publicly available prior to the actual meeting, since they are commonly mailed to attendees to review which poster presentation they wish to attend prior to going to the meeting.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-3 and 6-7 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, for reasons of record set forth in the Office Action mailed 2-25-05.

Applicant arguments filed 8-29-05 have been fully considered but have not been found persuasive.

Applicant argues that in view of the amendment the claims are definite.

However, the claims do not define what parameters need to be met to determine if the patient is responding to treatment or has cystic fibrosis. As such the claims remain indefinite.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Nolan whose telephone number is 571-272-0847.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at 571-272-0841.

A handwritten signature in black ink, appearing to read "Patrick J. Nolan". The signature is fluid and cursive, with the first name "Patrick" and last name "Nolan" clearly distinguishable.

Patrick J. Nolan, Ph.D.

Primary Examiner, Group 1640

November 3, 2005